IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.4009 OF 2006

Mohammed Yusuf Mohammed Sadiq Sheikh ...Applicant
vs.
Assistant Commissioner of Police & ors. ...Respondents

Mr.K.P.Ravi for the Applicant
Mr.D.P.Adsule A.P.P. for State

CORAM: A.S.OKA,J.
DATE : NOVEMBER 20,2006.

P.C.:

1. Heard Advocate for the Applicant and the learned A.P.P. for the Respondents. The challenge in this Application under section 482 of the Code of Criminal Procedure, 1973 is to the show cause notice issued under section 111 of the said Code. As per the oral directions issued on the last date, the learned A.P.P. has produced the file of the proceeding. Perusal of the said file shows that the learned Special Executive Magistrate has passed a preliminary order under section 111 of the said Code on the basis of which the show cause notice has been issued. I find that an order under sub section 3 of section 116 of the said Code was passed by the learned Special Executive Magistrate. The said order is passed without assigning any specific reasons. On the basis of the said order, interim bond has already been executed at the instance of the Applicant. It is obvious that the order for execution of the interim bond could not have been passed without recording specific reasons. Therefore, the said order is contrary to law. In view of this position, no coercive

steps shall be taken against the Applicant on the basis of the interim bond executed by him on the basis of the said order.

2. The Applicant has filed a reply to the show cause notice. Now, an enquiry will have to be held strictly in accordance with Chapter VIII of the said Code. No case is made out for interference at this stage. However, if any adverse order is passed, the Applicant will have to be protected for a reasonable period to enable him to avail of the statutory remedy.

3. Hence, I pass the following order :

i) The Respondents shall not take any coercive action against the Applicant on the basis of the interim bond which is already furnished by the Applicant.

ii) Enquiry will be conduced strictly in accordance with Chapter VIII of the said Code. If final order is passed which is adverse to the Applicant, the same will not be implemented for a period of two weeks from the date of passing the order.

iii) All contentions of the parties are expressly kept open.

JUDGE